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RECEIVED
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

5 Attorney for Defendant ALBERT KEJENG HU

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

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13 UNITED STATES OF AMERICA,) CASE NO. CR 09-00487 RMW (PSG)
14 Plaintiff,)
15 vs.)
16 ALBERT KEJENG HU,)
17 Defendant.)
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STIPULATION BY THE PARTIES TO
JOINTLY REQUEST THAT THE
RESTITUTION HEARING BE
CONTINUED TO JULY 8, 2013, AND
THAT THE US MARSHAL KEEP
DEF. ALBERT HU AT THE LOCAL
JAIL OR WITHIN THE BAY AREA
UNTIL THE JULY 8 HEARING &
[] ORDER RE SAME.

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20 Plaintiff, the United States of America, and Defendant, Albert Hu, hereby stipulate
21 to jointly request that the Court continue the restitution hearing for this case, from June 10,
22 2013, to July 8, 2013. Furthermore, the parties jointly request that the Court issue an order
23 for the United States Marshal to keep Mr. Hu in custody at the Santa Clara County Main Jail
24 in San Jose, CA (or any other suitable detention facility in the Bay Area) until the completion
25 of his appearance at the restitution hearing on July 8, 2013.

26 Currently, the restitution hearing of this case is scheduled on June 10, 2013, at 9:00
27 a.m., before the Honorable Ronald M. Whyte, Judge of the United States District Court for
28 the Northern District of California, San Jose Division. On June 4, 2013, counsel for Mr. Hu,

1 Attorney Jerry Fong, learned that the US Marshal's Office has transported Mr. Hu from his
 2 present place of incarceration (at the Federal Correctional Facility at Lompoc, California),
 3 with the final intended designation of San Jose, in order for Mr. Hu to attend the restitution
 4 hearing set on June 10. Mr. Fong also learned that the Marshal's Office's best estimate is
 5 that Mr. Hu will not arrive in San Jose in time for the June 10 restitution hearing and that Mr.
 6 Hu will likely not arrive in San Joses until sometime late next week, after June 10.

7 For this reason, the parties jointly request that the Court continue the restitution
 8 hearing from June 10, 2013 to July 8, 2013, at 9:00 a.m., the first mutually available date for
 9 the parties and the Court.

10 Furthermore, to ensure that Mr. Hu will be physically available to appear before the
 11 Court at the restitution hearing, the parties jointly request that the Court order that the US
 12 Marshal's Office keep Mr. Hu, temporarily, in a detention facility in San Jose (or in the Bay
 13 Area) once he arrives from the transportation from Lompoc, until after the completion of the
 14 July 10, 2013 hearing.

15 The July 8, 2013 date proposed by the parties is outside the 90 day limit for the
 16 determination of restitution under 18 U.S.C. §3664 (d)(5). However, the parties both
 17 acknowledge that the time frame set forth by 18 U.S.C. §3664 (d)(5) is procedural and not
 18 jurisdictional, that the time frame was established for the benefit of potential victims and not
 19 for the benefit of the defendant, and that the District Court has the power to impose a
 20 restitution award more than 90 days after sentencing. *See, e.g., Dolan v. US*, 130 S.Ct. 2533
 21 (2010); US v. Moreland, 622 F.3d 1147, 1172 (9th Cir. 2010).

22 In addition, on behalf of Defendant Albert Hu, his counsel, Jerry Fong, hereby
 23 stipulates that a continuance of the restitution hearing beyond the 90 day deadline is
 24 appropriate and necessary and that he agrees, on behalf of Albert Hu, that Mr. Hu will not
 25 raise any challenges to the restitution order based on the hearing being conducted beyond the
 26 90 day deadline imposed by 18 U.S.C. §3664 (d)(5).

27 It is so stipulated by the parties.

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5 DATED: June 04, 2013,

by JERRY Y. FONG, Attorney for
Defendant ALBERT HU

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8 DATED: June 04, 2013,

9 by TIMOTHY LUCEY, Assistant United
States Attorney

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12 [] ORDER

13 Pursuant to the parties' stipulation and good cause appearing herein, it is hereby
14 ordered that the restitution hearing shall be continued from June 10, 2013, to July 8, 2013,
15 at 9:00 a.m.

16 Furthermore, it is further ordered that the United States Marshal's Office shall
17 maintain Albert Hu in custody, until the completion of the July 8, 2013 restitution hearing,
18 at a detention facility in San Jose or at another suitable facility located in the Bay Area so that
19 he will be available to attend the July 8, 2013 hearing. After the completion of the hearing
20 on July 8, 2013, the Marshal's Office may return Mr. Hu to the detention facility designated
21 by the Bureau of Prison.

22 It is so ordered.

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24 DATED: 1007H

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JUDGE OF THE UNITED STATES
DISTRICT COURT